

COMMISSIONERS PROCEEDINGS
JUNE 20, 2006
CLARK COUNTY, WASHINGTON

The Board convened in the Commissioners' Hearing Room, 6th Floor, Public Service Center, 1300 Franklin Street, Vancouver, Washington. Commissioners Stuart, Morris, and Boldt, Chair, present.

9:45 A.M.

PROCLAMATION

Commissioner Stuart read a proclamation declaring the month of June 2006 as National Trails Month in Clark County, Washington.

Florence Wager, Parks and Recreation Advisory Commission, accepted the proclamation and said a few words.

10:00 A.M.

PLEDGE OF ALLEGIANCE

The Commissioners conducted the Flag Salute.

PUBLIC COMMENT

Alex Mattila, 16216 NE Fargher Lake Highway, Yacolt, commented about the habitat map. Mr. Mattila said that after looking it over he realized the impact the proposed ordinance would have if adopted. He stated that he purchased a 42-acre piece of property in the last year and a half and at the time it didn't have any riparian areas, but under the proposed map it has two new riparian areas. He said there was an additional piece of property that he's interested in that has a new riparian zone running through it. Mattila said he had concerns regarding the new proposal.

Boldt asked Mr. Mattila if he was referencing the new habitat ordinance or the map.

Mattila responded that the proposed map was drawn up according to the proposed ordinance and he was talking about the new map.

Morris said she didn't believe that was correct. She stated that under the ordinance it doesn't matter whether it's mapped or not and if it's a riparian zone it remains a riparian zone. She noted that the map designates new state designations. In terms of riparian areas, she didn't think the map looked any different than it's always looked and the ordinance always prevailed over the map anyway. She said some clarity on that would be helpful.

Stuart asked Joel Rupley for clarification.

COMMISSIONERS PROCEEDINGS
JUNE 20, 2006
CLARK COUNTY, WASHINGTON

Joel Rupley, Endangered Species Act (ESA) Program Director, stated that DNR (Department of Natural Resources) had recently revised its data and he didn't know if this was DNR driven or WDFW (Washington Department of Fish and Wildlife) driven as far as the data that described the areas Mr. Mattila referenced. Rupley said they were in fact added to the old map and not on the new map. He said if an application were to come through it would be what is on the ground that controls it.

Mattila said his concern with the map is that it would trigger a review, which costs money and is an extra burden for the landowner. He then commented on a Twilight Tour scheduled for June 29, which deals specifically with how the regulations impact tree farmers. He noted that it would be taking place at Walt Sweyer's tree farm and he invited the board, as well as any county staff that would like to attend.

CONSENT AGENDA

Boldt stated that they would be pulling item 1 (Resolution for Laurelwood Baptist Church), as well as item 5 (Local Mutual Law Enforcement Assistant Agreement with the City of Ridgefield), for further discussion.

Morris wanted to know why they were pulling item 5.

Bill Barron, County Administrator, explained that the Prosecuting Attorney's Office had requested that it be pulled because the Civil Service Commission of Ridgefield had a concern regarding the length of time and the State Auditor wanted more time to look at it.

Morris referenced item 3 (contract with the JD White Company, Inc., for professional engineering services in the amount of \$50,561.46) and asked if the dollar amount was the total price or if it was what they were amending the contract for.

Pete Capell, Director of Public Works, said that was amending it. He said they had done prior work for site planning and permits for activities out there and this was for a change in the site plan.

Boldt wanted to know what site it was.

Capell responded that it was the 78th Street complex. He further explained.

There being no public comment, **MOVED** by Stuart to approve items 2 through 4 and 6 through 10. Commissioners Boldt, Stuart, and Morris voted aye. Motion carried. (See 283)

Barron pointed out that there was also an add-on item regarding approval of an amendment to an interlocal agreement with the Vancouver Housing Authority. Mr. Barron provided background regarding House Bill 2060 as it relates to low income

COMMISSIONERS PROCEEDINGS
JUNE 20, 2006
CLARK COUNTY, WASHINGTON

housing. Also, he noted that in 2003 the board approved the fact that they would bond some of the money coming to Clark County and that the county entered into an agreement with the Vancouver Housing Authority, who is to use that money to find sites for some of the low income housing projects. He said the bond council had requested clarification of the amendment, which is a technical change that would help describe a limited liability corporation's role in such a transaction.

Chris Horne, Prosecuting Attorney's Office, added that the interlocal agreement limits the entities that can lease the buildings from Vancouver Housing. Mr. Horne said part of the financing for low income housing typically relies on income tax credits and that funding is used to pay for low income housing. He explained that when the person who owns the tax credit goes to the end of the year they depreciate a portion of the low income housing because it doesn't pay for itself and that amount of the depreciation and the loss is used by the individual tax payer to deduct or reduce their tax liabilities. They are operated by limited liability companies and there was a question by bond council as to whether or not limited liability companies constitute a qualified user for the purposes of this interlocal agreement. Also, they wanted to ensure that as long as they followed the restrictions of the interlocal agreement—called their capital fund restrictions—those monies could be re-funneled into other low income projects to keep the money moving. Horne said the effect of this memorandum of understanding was to accomplish those two goals.

There being no public comment, **MOVED** by Stuart to approve the add-on item approving an amendment to the interlocal agreement between Clark County and the Vancouver Housing Authority regarding expenditures of bond proceeds for the benefit of low income housing. Commissioners Boldt, Stuart, and Morris voted aye. Motion carried. (See Tape 283)

PUBLIC HEARING: HABITAT CONSERVATION ORDINANCE

Held a public hearing to consider adoption of proposed revisions to the Clark County Habitat Conservation Ordinance (CCC40.440). Hearing continued from April 24, 2006; April 25, 2006; May 2, 2006; and May 30, 2006. There was no public comment at this hearing.

****Verbatim****

BOLDT: Moving on now to the habitat conservation. We do not have public comment on this. I believe we're doing...after the work session that we had given some direction to our fine staff and the one thing I have with this is that the Farm Bureau, through Mr. Hill, has requested that...in the work session we talked about taking the default mechanism out and going strictly...if you don't have a farm management plan, then go with the

COMMISSIONERS PROCEEDINGS
JUNE 20, 2006
CLARK COUNTY, WASHINGTON

ordinance. The problem that the Farm Bureau saw is that the default mechanism is...I don't know if you would want to say...it's not a happy medium; it's somewhere in between possibly...it's not happy by no means. So that's what they would like to see, that put back in, and I think for my understanding we took it out to make it a little easier to take all the worrisome language out of that to make it easier for the Farm Bureau. They want it in there so...am I saying that right, Mr. Lowry? Is that kind of in between?

RICH LOWRY: [response inaudible]

BOLDT: Okay. And so they have a right to say they would like to go to the default rather than to go to the ordinance?

LOWRY: Rich Lowry, County Prosecutor's Office. The riparian areas—the inner and outer zone under the default option are significantly narrower than the general ordinance riparian areas so it is a mid-way between what you could potentially do under a management plan—I guess you're not calling it a management plan—and the basic ordinance.

BOLDT: Okay.

LOWRY: I might also indicate that a default option doesn't require any action by a property owner if he can fit within the rules of the default option. He would not have to come in or have any review at all of a plan so it has that advantage.

BOLDT: Are there any other questions for Mr. Lowry while he's here?

MORRIS: Even if they did fall under the default option, there are non-development applications. It's a Type I process, right?

COMMISSIONERS PROCEEDINGS
JUNE 20, 2006
CLARK COUNTY, WASHINGTON

LOWRY: Not for the default option. The default option doesn't require any review at all.
If you –

MORRIS: I'm sorry. I'm saying if the default position were the underlying ordinance...
were the fundamental ordinance, the process is a Type I. Is that right?

LOWRY: The process for...

MORRIS: It's a non-development...I believe that –

LOWRY: Oh, yes, that's correct.

MORRIS: It's just a Type I.

LOWRY: If a permit is required under the basic ordinance for a non-development
application, it's a Type I.

MORRIS: It's a Type I. And it's still an agricultural practice, which means that it makes
the assumption that we make in the AG module that the existing conditions are what you
measure from, right?

LOWRY: Correct.

MORRIS: I guess I'm having trouble...

LOWRY: The basic difference under the standard ordinance, if clearing is occurring
within the designated riparian habitat area, a Type I permit would have to be obtained and
they'd have to prove up that they were substantially maintaining function and value.
Under the default option they are required to stay out, essentially, of the inner zone, but

COMMISSIONERS PROCEEDINGS
JUNE 20, 2006
CLARK COUNTY, WASHINGTON

can conduct clearing activities in the outer zone without a Type I review by the county so long as they are not causing degradation. So a Type I permit for clearing would be required under the basic ordinance; would not generally be required under the default option. And that's based upon a finding that was in the earlier version indicating that the AG activity, particularly within the outer zone, is presumed not to cause degradation and, therefore, review is not required.

BOLDT: Okay, thank you.

STUART: Thanks, Rich.

BOLDT: Joel, we have in front of us Exhibit A and then we have...

JOEL RUPLEY: I can give you a brief summary of what you have. The first piece of paper is a single sheet with the work session memorial from last week and highlighted in blue are references to the changes into the ordinance that were driven by your discussion then. The second piece is called Exhibit A, which is the AG portion only. It's 4 pages and it is only the AG portion as you directed us to separate those out for discussion. The third piece is the adopting ordinance and there are some changes in the adopting ordinance, including a new "whereas" on line 51 –

BOLDT: Now, you're talking about the other Exhibit A, all sections but agriculture?

RUPLEY: No, I'm talking about this ordinance number.

BOLDT: Okay, ordinance number.

RUPLEY: Yes, that's the adopting ordinance. That has on line 51 an insertion that Commissioner Morris suggested and it talks about we're presuming that farmers know

COMMISSIONERS PROCEEDINGS
JUNE 20, 2006
CLARK COUNTY, WASHINGTON

what they're doing, and it also adds in on lines 117, 118, and 119 and 120 language that you directed us to include talking about developing a schedule to be approved by you for development of the guidelines and that also we would notice those landowners who participate in the current use AG taxation program, so that's that one. The third one is Exhibit A all sections but Agri, and that has been changed to include your suggestions that we title those references rather than just use numbers so for example on page 3 in the middle of the page, WAC 365.195.905 now shows a title afterwards, criteria for determining which information is the best available science. So it gives...it means you don't have to look it up and say what the heck are they talking about? I also included reference to the conversion option harvest plans in that one.

Then finally we have Exhibit B, it's a single sheet, two sides, and we've added a definition redefining agriculture uses or agricultural activities in the separate definition section of Title 40. We also...I did correct some misspellings in there and also...you know I didn't mention...

BOLDT: On top of Exhibit B, is that the fees?

RUPLEY: Yes and that's just for...the new entries are for the utilities programmatic permits. See the underlying entries on the right side...1,400, 2,800, and 700? The only thing that is being changed there are those additional fees for programmatic utility permits, which is in the main body of the ordinance. I also noted, and I can't even find it...oh yeah, at the end of the agriculture piece, that by deleting the default option, we also deleted reasonable use, which was part of that option. So if you want reasonable use, you will need to provide us some direction as to where to go with that piece as well. It's just a heads up to you.

STUART: It didn't delete reasonable use in all the sections? It just deleted it in the AG section?

COMMISSIONERS PROCEEDINGS
JUNE 20, 2006
CLARK COUNTY, WASHINGTON

RUPLEY: No, no, just the agriculture...we had a special agricultural reasonable use piece in there. It had to do with impacts on 25% of a 5-acre parcel and 50% on a 10-acre with the current numbers, and those are subject to discussion as well. So that's what you have in your packet this morning.

BOLDT: I have a question on Exhibit B. The habitat predetermination: is that where you, Mr. Howe, would come out before and say...

DAVID HOWE: [response inaudible]

BOLDT: Okay. Yes.

STUART: I guess the question I have is if we were to revert to the default that had been previously discussed, the 30 and 50 that the Farm Bureau is now apparently asking us to put back in, if we were to revert to that would we need to go to another hearing and reopen public testimony or would we then be back in the situation that we were in, which is we're at the point of deliberation and adoption?

MORRIS: I don't think we're at deliberation and adoption. I think we're at readvertisement.

BOLDT: Right now.

MORRIS: Right now.

STUART: That's my question: if we were to revert to something that had already been advertised and dealt with, are we still in that spot?

COMMISSIONERS PROCEEDINGS
JUNE 20, 2006
CLARK COUNTY, WASHINGTON

MORRIS: Oh, I see.

LOWRY: I think it is not simply the issue with the default option. The entire ordinance as it deals with AG is new, since your hearing at which you took public testimony. So the safe course would be to go to public hearing solely on the AG question.

BOLDT: And can we do that next week?

LOWRY: There would not be enough time to advertise.

MORRIS: It'd take two weeks.

RUPLEY: It would be, due to the Columbian...legally I think it has to be two weeks advertised so that means July 11.

LOWRY: One option that's available that you may want to consider, given the issue on grant eligibility, is to go ahead and adopt the non-AG provisions, update the habitat ordinance other than not dealing with the AG—leave the AG exemption in. The funding issue relates to the county's failure to take action to revise. It does not relate to the AG option. I confirmed that with DCTED. They're treating the AG issue as one that is...they're waiting for all the litigation to be completed before they say compliance, non-compliance. So since you'll be going to hearing only on the AG issues, you could adopt the remainder of the changes to the ordinance, which would then, my understanding, cause DCTED to say, since you completed the wetland ordinance, we now have a full plate of critical land ordinance updates.

BOLDT: If we did the other part, could we do that now or would we have to wait?

COMMISSIONERS PROCEEDINGS
JUNE 20, 2006
CLARK COUNTY, WASHINGTON

LOWRY: You could do that now. We'd have to prepare the actual ordinance that only dealt with the non-AG stuff, but we could have that back to you this afternoon or tomorrow.

STUART: And we have that in Exhibit A—all sections, but AG.

LOWRY: All we'd have to do is add to those provisions...well, we'd have to do two things: one, we'd have to fiddle with the recitals so they fit; and secondly, we'd have to put back in the AG exemption for the interim period of time until you adopt the revisions relating to AG.

MORRIS: I like that approach. It will just delay the AG sections of it until Clallam County finishes in court.

BOLDT: I like that approach since Monday I'm going to be in front of the Public Works Board with Pete trying to get our money back and I would sure like to say we're in compliance.

STUART: Sounds good.

MORRIS: If we're going to advance that section, then I would have an amendment to the reasonable use provisions because I didn't realize that there was a possibility of our adopting the first part of the ordinance. This is an issue that Jim Malinowski has raised repeatedly about A., page 9 of 15, line 3, "there are ancillary buildings..." –

BOLDT: Excuse me, may I, where are we at?

MORRIS: I'm on page 9 of Exhibit A, from line 3...

COMMISSIONERS PROCEEDINGS
JUNE 20, 2006
CLARK COUNTY, WASHINGTON

BOLDT: Okay. Page 9?

MORRIS: Uh-huh.

BOLDT: Okay, sorry. And what now?

MORRIS: Well, I think what I would want to add...I mean you don't want to just say you can put up anything on there, but there would be some additional buildings. For instance, if you didn't want to have an attached garage, this wouldn't allow you to have a detached garage. So I think what you would need to say is, "...and necessary ancillary buildings..." or something of that nature. And maybe legal council can find the right word between now and the time we actually adopt it, which I'm assuming you want to come back and do this afternoon? Is that right? After they get it all cleaned up?

BOLDT: Yes.

STUART: Or can we adopt subject to...?

MORRIS: Well you can, but we still have to adopt the final words. And if you want to finish for Monday, you probably want to come back this afternoon.

LOUISE RICHARDS: You have a work session at 2 o'clock so maybe you could do it before that.

MORRIS: We could just continue to 1:30 or 1:45 for the purpose of adopting if you wanted to.

STUART: The lawyers are working feverishly.

COMMISSIONERS PROCEEDINGS
JUNE 20, 2006
CLARK COUNTY, WASHINGTON

RUPLEY: We need to make sure they have time to write that in.

BOLDT: So while we're talking, is it the board's recommendation that we still have an open hearing on the AG part?

MORRIS: Yes.

STUART: Sounds like we need to.

BOLDT: In 2 or 3 weeks or something?

RUPLEY: We can get that on July 11 at the regular hearing due to publication requirements. We have a notice prepared.

BOLDT: It'd be fitting for July 4. [Laughs]

MORRIS: If we're going to go back to the old default options, then I'm going to resurface my argument about no applicability on resource zoned lands...AG zoned lands.

BOLDT: Okay.

LOWRY: Let me offer some specific language –

MORRIS: Thank you.

LOWRY: – and then the board wouldn't have to reconvene to sign the ordinance. On page 9, at least in mine it's line 15, the lead-in being – “This chapter shall not be used to prohibit...” and then sub A “Placement of a single-family residence...,” and then insert – “...and residential accessory structures on an otherwise legally buildable lot of record.”

COMMISSIONERS PROCEEDINGS
JUNE 20, 2006
CLARK COUNTY, WASHINGTON

Now that would leave open the ability to say you can't have a 15-car garage because the lead-in sentence shall not be used to prohibit that use. It would still allow for some limitation on particularly size of a use.

MORRIS: Would you say the words again please?

LOWRY: "Placement of a single-family residence and residential accessory structures on an otherwise legally buildable lot of record." So inserting "and residential accessory structures."

MORRIS: Okay.

BOLDT: Is that okay?

MORRIS: Uh-huh.

STUART: And would there still be...I'm sorry, would there still be limitations? You talked about briefly, and I was still writing the words, and you said something about that there would still be some sort of reasonableness that would be assigned to that as far as the number and type and size of these accessory structures.

LOWRY: You could be. Again, the lead-in says that – "This chapter shall not be used to prohibit," so you get the accessory structure. It would not preclude a limitation on size of the accessory structure.

STUART: Or placement or something like that.

LOWRY: Or where it could be placed, correct.

COMMISSIONERS PROCEEDINGS
JUNE 20, 2006
CLARK COUNTY, WASHINGTON

RUPLEY: Refer to page 8, lines 37 and 38, which is the beginning of that reasonable use section, you've still got "to mitigate to the maximum extent practicable." It would be subject to permit conditions, limiting locations, and requiring mitigations be imposed and erosion control so it's not a get out of jail free card. You've got to post bail anyway.

STUART: Is there a reason we didn't put the words, "that as long as impacts are avoided or mitigated to the maximum extent practicable?" Is there a reason that we wouldn't...seems like everything else our series is the first thing you try to do is avoid, then you mitigate. Is there a reason we didn't have those words in that?

MORRIS: We did. That's what Joel's pointing out; is that's the B, which overrides all the other little subs.

STUART: But it doesn't say "avoid." It just says, "as long as impacts are mitigated to the maximum extent practicable." It doesn't say, "as long as impacts are avoided..."

MORRIS: Is reasonable use.

RUPLEY: You can't avoid if you're going to allow the...or not prohibit.

STUART: Okay.

RUPLEY: This implies that you're avoiding impacts to the maximum extent practicable so that's where the "avoid" comes in. You're not avoiding building in there because you're allowing the building to occur, but you're trying to avoid impacts to the maximum extent practicable, which is –

STUART: But you're not. You're mitigating them to the maximum extent possible.

COMMISSIONERS PROCEEDINGS
JUNE 20, 2006
CLARK COUNTY, WASHINGTON

RUPLEY: Well, the mitigation sequence is confusing and state WACs...it's titled Mitigation Sequence and then underneath first thing is avoid and second thing is minimization; third thing is mitigation. So it has two definitions.

LOWRY: The language Joel referred to, if I correctly followed him, is under Subsection 4...

MORRIS: We all have different pages. We are not looking at the same thing you are, Rich.

LOWRY: Okay. The standard for reasonable use is different than the standard for issuance of a general habitat permit. The reasonable use assurance says you get to do something so long as the impacts are mitigated to the maximum extent practicable. Now that language would be inappropriate in the general standard for habitat permit because the general standard is you substantially maintain, and if you're substantially maintaining then you don't have to do more than that.

STUART: Okay.

BOLDT: Does that satisfy?

STUART: Yeah, thank you.

BOLDT: Okay, where are we at now?

RUPLEY: Commissioners, Mr. Potter pointed out to me that there is in the table of Exempt and Reviewed Activities on page 4 –

STUART: Of what?

COMMISSIONERS PROCEEDINGS
JUNE 20, 2006
CLARK COUNTY, WASHINGTON

RUPLEY: – of the one you're working on right now, Exhibit A minus the AG.

STUART: So what are you looking at?

RUPLEY: The second from the bottom box, titled "Existing Agricultural Uses with Riparian Habitat Areas." It means within, we need to have "within" instead of "with".

BOLDT: Oh, yeah.

RUPLEY: Does that make sense?

MORRIS: But aren't we dropping that?

RUPLEY: Well, I think Rich is going to have to figure out some language to add back until the...full AG exemption until the 11th or whatever.

LOWRY: I'm proposing that we just add back in the existing ordinance language that exempts ongoing AG activity.

STUART: But not new?

LOWRY: But now new, no. New activity has always been subject to the general ordinance. There is in the adoption ordinance a blank under the non-AG provisions for when the utility programmatic permit provisions come into effect. I don't know whether the board has given direction on that or not.

RUPLEY: No. Staff would recommend in 6 months that they not be required; that they be essentially exempt from the ordinance for 6 months and then be required to get permit.

COMMISSIONERS PROCEEDINGS
JUNE 20, 2006
CLARK COUNTY, WASHINGTON

STUART: Per AG?

RUPLEY: Programmatic permit for utilities.

STUART: Oh, for programmatic. Thank you.

RUPLEY: That's just a little housekeeping measure that we need to have answered.

BOLDT: Okay.

MORRIS: Can you just do the typing on this for us and come back at 1:30 so we know what we're really working with?

RUPLEY: I think that's a good idea.

MORRIS: Because it seems to me on the AG issue, Rich, that all you need to do is take out the new language on these...or second box from the bottom on page 4. Just take that out looks to me like you get to where you want to be. It's my page 4.

BOLDT: Page 4...

STUART: It's the table that Joel was just talking about.

MORRIS: Exempted Review.

BOLDT: Just leave that out?

LOWRY: Yes, I think that's accurate.

COMMISSIONERS PROCEEDINGS
JUNE 20, 2006
CLARK COUNTY, WASHINGTON

MORRIS: Okay, thanks.

BOLDT: We can do that.

STUART: So do you want to work on it? Can we get something...just something by 1:30 that gives us what we need to look at?

[Staff's response inaudible.]

STUART: Okay, then would you like a motion, Mr. Chair?

BOLDT: Yes.

STUART: Thank you, Mr. Chair. I move to continue the hearing on the Habitat Conservation Ordinance to 1:30 today, June 20.

BOLDT: Thank you. It's been moved and seconded to continue the Habitat Ordinance until today at 1:30. All in favor say aye.

MORRIS: Aye.

STUART: Aye.

BOLDT: Aye. All opposed? Motion carried. (See Tape 283) Now, at 1:30 can we also...or should we continue the hearing or make a hearing now for the agriculture piece?

LOWRY: Since it will be readvertised that's not necessary, but you can certainly indicate the date on which the hearing will be held.

COMMISSIONERS PROCEEDINGS
JUNE 20, 2006
CLARK COUNTY, WASHINGTON

BOLDT: I believe it will be July 11.

STUART: Should we do that right now? Continue the agricultural portion? Or should we do it at 1:30 when we're looking at the rest.

MORRIS: We just do it at 1:30. Let's get one part of it adopted and continue the second part of it until a date certain.

STUART: Good idea.

PUBLIC HEARING: PRIORITY HABITAT & SPECIES MAP

Held a public hearing to consider amending Clark County Code section 40.440.010C.2 of the Priority Habitats and Species Map. Hearing continued from May 30, 2006. There was no public comment at this hearing.

****Verbatim****

BOLDT: Thank you. And then we also have the priority habitat...what's the...?

MORRIS: Map.

BOLDT: We were thinking we would wait until we get the ordinance done, until we've done that. Do you want to wait until we get the AG ordinance done?

MORRIS: Frankly, Mr. Chairman, I don't think it makes any difference because the language prevails over the map and all the map does is reveal what's going to happen when somebody comes out and walks around the property. That is not a reflection of the ordinance. In fact it may show new things, but what it shows is not new; they're just now visible because they have always been so. They weren't just discovered. So actually, the riparian areas that are specified in the ordinance we're going to adopt at 1:30 are smaller

COMMISSIONERS PROCEEDINGS
JUNE 20, 2006
CLARK COUNTY, WASHINGTON

than they were before, Mr. Mattila, in some instances. And so it's not the ordinance that drives the map at all and that has been confused because of our timing on this, but the map is not a reflection of the ordinance.

BOLDT: Does the habitat map, even though we're out of this game, affect the forest and fish bill?

RUPLEY: The stream typing is driven by forest and fish, which is reflected on the map. So forest and fish affects the map, but not the other way around.

BOLDT: Oh, not the other way around?

RUPLEY: That's correct because –

BOLDT: So the huge...which are huge buffers and that for the forest land owners.

RUPLEY: The stream type's distances are different under forests and fish than they are under this ordinance. So we both use stream types driven by forests and fish. We apply one set of rules; DNR applies a different set of rules.

BOLDT: We look good compared to them.

MORRIS: Yes, we do.

BOLDT: So with that, what's your pleasure? To go ahead...do we just approve the map?

RUPLEY: You can adopt the map.

LOWRY: [comments inaudible]

COMMISSIONERS PROCEEDINGS
JUNE 20, 2006
CLARK COUNTY, WASHINGTON

RUPLEY: That's been held.

BOLDT: We already had an open hearing.

MORRIS: We did.

RUPLEY: And it's been closed. The testimony's been closed on that so you could go ahead and adopt. The motion would be simply to adopt the Priority Habitat and Species map.

STUART: Can I just confirm that if we were to adopt this map and we adopt a habitat conservation ordinance that is somewhat different in the AG module of it, would that change the map?

RUPLEY: Not in the AG module, no it would not.

STUART: Will it change if we were to change something in the HCO this afternoon?

RUPLEY: Yes, if you went back to the old 1-2-3-4 stream typing or –

STUART: But that's what it would take?

RUPLEY: Yes. Or substantially change the sizes of the riparian areas.

STUART: Okay, thanks.

BOLDT: Do you have a motion?

COMMISSIONERS PROCEEDINGS
JUNE 20, 2006
CLARK COUNTY, WASHINGTON

STUART: Thank you, Mr. Chair. I move approval of the Priority Habitat & Species Map.

MORRIS: Second.

BOLDT: Thank you. It's been moved and seconded to approve the priority habitat & species map. All in favor say aye.

STUART: Aye.

MORRIS: Aye.

BOLDT: Aye. All opposed? Motion carried. Thank you. With that, we will be back here at 1:30. (See Tape 283)

[End of verbatim]

COMMISSIONER COMMUNICATIONS

Commissioner Boldt commented that his granddaughter was born yesterday at Legacy Hospital.

1:00 P.M.

PUBLIC HEARING: HABITAT CONSERVATION ORDINANCE

Hearing continued from 10:00 a.m.

****Verbatim****

BOLDT: The Clark County Commissioners are in session. Joel, can you give us a summary on the habitat ordinance?

COMMISSIONERS PROCEEDINGS
JUNE 20, 2006
CLARK COUNTY, WASHINGTON

RUPLEY: Thank you, Mr. Chair. This morning, you directed us to revise the ordinance to delete the agricultural references for later consideration. Two parts that I would ask today, one is up or down essentially on what's in front of you and the other is direction to publish what we publish for the July 11 hearing. We need some clarity on that, what it includes. There seemed to be a consensus, but we need to make sure that what we publish for consideration and public comment is what you want out there in the news media.

BOLDT: Okay, very good.

RUPLEY: So the first piece of the top page is the adopting ordinance and we deleted the references to agriculture. We presume that those will be included in the subsequent consideration, the whereas's and all of that on July 11. Under "Conclusions" we took out some more references to AG. We did revise the language on the top of page 5 with respect to delayed implementation; now it responds just to the programmatic permits for utilities. And that shows up again on page 6 and the top of page 7, that the suggestion now is since we're so close to July 1st why don't we just make it the end of the year or the 1st of January next year...is when that would become effective, that part of it.

Exhibit A has been revised and the changes I highlighted in blue and I will tell you that when we go through this we'll take out all of the blue, we'll take out in the adopting ordinance all the underlines and everything go away, but in the code sections changes are underlined for the code reviser to track into. We deleted the reference to existing AG in riparian areas and the table on page 4 we now have existing agriculture uses within habitat areas as exempt, which would be amended in any subsequent decision you make on the 11th or further out. We added the language on page 9 of the residential accessory structures and I think the only other change in that is that we indicated the agriculture uses on the very last page is an area we reserved, so we're reserving that final section for whatever happens with agriculture.

COMMISSIONERS PROCEEDINGS
JUNE 20, 2006
CLARK COUNTY, WASHINGTON

Exhibit B, we're deleting the two definitions that were added specifically for agriculture. Everything else remains the same. That's it in a nutshell.

BOLDT: Any questions?

STUART: Thanks for getting this done so quick.

BOLDT: Good job.

RUPLEY: Joni's on vacation too.

[Laughs]

MORRIS: Oh, you had to type yourself.

RUPLEY: And copy!

BOLDT: Do you have anything?

MORRIS: No. I have a second, if there's a motion.

STUART: Do you entertain a motion there, Mr. Chair.

BOLDT: Yes.

STUART: Thank you, Mr. Chair. I move approval of ordinance 2006-06-09, an ordinance relating to critical lands as amended.

MORRIS: Second.

COMMISSIONERS PROCEEDINGS
JUNE 20, 2006
CLARK COUNTY, WASHINGTON

BOLDT: Thank you. It's been moved and seconded to approve ordinance 2006-06-09, Habitat Conservation Ordinance. All those in favor say aye.

MORRIS: Aye.

STUART: Aye.

BOLDT: Aye. All Opposed? Motion carried. (See Tape 284)

LOWRY: We'll get the fully clean copy back up to the Chair to sign later this afternoon.

BOLDT: Okay.

STUART: And, Mr. Chair, would you like me to continue...

BOLDT: Yes.

STUART: Thank you, Mr. Chair. I move that we advertise and continue the hearing for the habitat conservation ordinance-agriculture provisions to July 11 at 10:00 a.m.

MORRIS: Second.

BOLDT: Thank you. It's been moved and seconded to advertise the habitat conservation ordinance dealing with agriculture to July 11 at 10:00 a.m. All in favor say aye.

MORRIS: Aye.

STUART: Aye.

COMMISSIONERS PROCEEDINGS
JUNE 20, 2006
CLARK COUNTY, WASHINGTON

BOLDT: Aye. All opposed? Motion carried. (See Tape 284)
That all you need?

RUPLEY: I need direction as to what to include in that ordinance because we have to –

BOLDT: It's a secret.

RUPLEY: – comment on...

MORRIS: Mr. Chairman, I have a suggestion. I think that we could advertise, could we not, Mr. Lowry, both versions? The old version, with the default provisions at the 30 and 50, and the new approach, which would...okay, he said absolutely. Thank you.

RUPLEY: I'll put both of them on the website and make copies and mail them out.

STUART: Perfect.

MORRIS: Great, thanks.

BOLDT: Sounds good. Thank you. Meeting adjourned.

COMMISSIONERS PROCEEDINGS
JUNE 20, 2006
CLARK COUNTY, WASHINGTON

BOARD OF COUNTY COMMISSIONERS



Marc Boldt, Chair

Steve Stuart, Commissioner



Betty Sue Morris, Commissioner

ATTEST:



Clerk of the Board

rt